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In re Application of:

Calvez et al.

Application No.: 10/550, 843

PCT Application No.: PCT/GB04/01233

Int. Filing Date: 24 March 2004

Priority Date Claimed: 24 March 2003

Attorney Docket No.: D-3214

For: Improvements in and Relating to

Vertical-Cavity Semiconductor

Optical Devices.

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:  
: DECISION ON PETITION  
: UNDER 37 CFR 1.137(b)  
:

This is in response to Applicants' "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally under 37 CFR 1.137(b)" filed 10 October 2006.

**BACKGROUND**

On 24 March 2004, Applicants filed international application PCT/GB04/01233, which claimed a priority of an earlier application from Great Britain filed on 24 March 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 24 September 2005.

International application PCT/GB04/01233 became abandoned as to the United States for failure to timely pay the basic national fee.

On 10 October 2006, applicants filed the present petition under 37 CFR 1.137(b).

### DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or

applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) the required reply, (2) the petition as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995).

With regard to Item (1), applicants have provided the required reply under 35 U.S.C. 371 (i.e. payment of the basic national fee).

With regard to Item (2), the appropriate petition fee of \$750 as required by 37 CFR 1.17(m) has been paid.

With regard to Item (3), the petition includes the required statement of unintentional delay.

With regard to Item (4), a terminal disclaimer is not required since this application was filed after 08 June 1995.

A review of the application file reveals that applicants have satisfied the requirements of 37 CFR 1.137(b).

A review of the file reveals that Oath/declaration signed by all of the applicants/inventors named in the international application has not been filed.

### CONCLUSION

For the reason set forth above, the petition to revive the international application abandoned under 37 CFR 1.137(b) is **GRANTED** as to the National Stage in the United States of America, and will be processed, under 35 U.S.C. 371, as application number 10/550,843, at this time.

Application number **10/550,843** is being forwarded to the National Stage Processing Division of the Office of PCT Operations for further processing in accordance with this decision, that is, for mailing a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration in compliance with 37 CFR 1.497(a)-(b), and the surcharge for filing the oath or declaration after thirty months period is required.



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